

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SALIH HALL,	§
	§ No. 123, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0506014139
	§
Plaintiff Below-	§
Appellee.	§

Submitted: May 18, 2009

Decided: June 5, 2009

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 5th day of June 2009, it appears to the Court that:

(1) The defendant-appellant, Salih Hall, filed an appeal from the Superior Court’s February 18, 2009 order denying his motion for correction of an illegal sentence pursuant to Superior Court Criminal Rule 35(a). On April 6, 2009, this Court denied Hall’s motion to proceed *in forma pauperis* (“IFP”).¹ On that same date, the Clerk sent a letter to Hall requesting him to pay the \$460 filing fee no later than April 16, 2009. The letter stated that, if

¹ Supr. Ct. R. 26(e). The record reflects that Hall’s motion was incomplete in that he failed to list each case filed in this Court for which he had sought IFP status.

the filing fee were not timely paid, a notice to show cause why the appeal should not be dismissed would issue.

(2) When Hall failed to pay the filing fee, a notice to show cause issued on April 20, 2009. The notice directed Hall to show cause why his appeal should not be dismissed for his failure to diligently prosecute his appeal by failing to pay the Supreme Court filing fee. On May 4, 2009, the Court received Hall's response to the notice to show cause. In the response, Hall states that he should not be required to pay the filing fee because his IFP motion was improperly denied under Del. Code Ann. tit. 10, § 8803(b).² However, as argued by the State in its reply, that statute does not apply to this case. Once this Court has denied an appellant's motion for IFP status, it is the obligation of the appellant to pay the Court's filing fee.³

(3) We conclude that Hall has failed to show cause why his appeal should not be dismissed due to his failure to diligently prosecute the appeal by not paying the Court's filing fee.

² That statute requires a court to review a *civil* complaint for legal or factual frivolousness following the granting of IFP status to the plaintiff.

³ Supr. Ct. R. 20(a).

NOW, THEREFORE, IT IS ORDERED that the appeal is
DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice